Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Emergency Alert System	)	EB Docket No. 04-296

COMMENTS OF
THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

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The National Cable & Telecommunications Association ("NCTA") hereby submits its comments on the Notice of Proposed Rulemaking ("Notice") in the above-captioned proceeding. NCTA is the principal trade association representing the cable television industry in the United States. Its members include cable operators serving more than 90% of the nation's cable television subscribers. In addition to providing multichannel video programming services, NCTA's cable operator members also provide high-speed Internet services, and are increasingly offering facilities-based voice services. NCTA's members also include more than 200 cable programming networks, and suppliers of equipment and services to the cable industry.

INTRODUCTION AND SUMMARY

The Commission's proceeding on the efficacy of the Emergency Alert System ("EAS") arises against a backdrop of comprehensive review of the nation's emergency preparedness and homeland security in light of the events of September 11, 2001. As the Notice points out, the Commission is coordinating with the Department of Homeland Security and its component, the Federal Emergency Management Agency (FEMA), and the Department of Commerce and its component, the National Oceanic and Atmospheric Administration's National Weather Service (NOAA/NWS) to improve the dissemination of emergency information to the public. EAS and other emergency notification mechanisms operated by FEMA and NOAA are part of an overall

public alert and warning system, which is being evaluated in response to major technological advancements and increased threats to the nation's security. The Commission's Notice, in particular, stems in part from recommendations of the FCC's Media Security and Reliability Council, which is aimed at developing best practices to ensure the continued operation and security of media facilities in times of national emergency, and the Partnership for Public Warning, a public-private partnership designed to promote effective dissemination of public warnings.

The main objective of the Notice is to seek comment on "whether EAS as currently constituted is the most effective and efficient public warning system" that best takes advantage of technological advances and supplies timely emergency information to the public.[1] The Commission raises a wide range of questions in such areas as federal/state program responsibility, EAS structure and event codes, expanding EAS to other services, and public warnings for persons with disabilities.

The cable industry's role in providing emergency information to the public dates back to the 1960s, when some cable systems distributed warnings to their customers via electronic links to radio and television stations and federal, state and local agencies that participated in the Emergency Broadcast System ("EBS"). Pursuant to local franchise requirements, some cable operators began installing alerting equipment that could be activated by local government officials or law enforcement agencies to warn cable customers about emergency situations in their communities. This practice continued for several decades and, in 1992, the Commission

[1] Notice at ¶ 20.

formally proposed extending the reach of the EBS (now EAS) to cable television as part of a larger modernization of the system.[2]

In 1992, Congress also enacted section 16(b) of the Cable Television Consumer Protection and Competition Act, which required cable systems to "comply with such standards as the [Federal Communications] Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations . . . .," 47 U.S.C. § 544(g). The FCC adopted initial rules implementing this statutory provision in 1994, which were later revised in 1997.[3]

Under the current EAS regime, cable operators are required to provide the national EAS message (signaled by the Emergency Action Notification event code) and are encouraged to use their EAS equipment to disseminate information about state and local emergencies.[4] The Second Report and Order on cable implementation of EAS adopted a phased-in approach based on system size. By December 31, 1998, cable systems serving 10,000 or more customers per headend were required to install EAS equipment capable of providing audio and video EAS messages on all programmed channels. The audio and video override may be a text message or video crawl over the programming or a blackout of the video and audio programming which is

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2 *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 7 FCC Rcd 6903 (1992).

3 *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Report and Order and Further Notice of Proposed Rulemaking, 10 FCC Rcd 1786 (1994)(First Report and Order), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995) (Memorandum Opinion and Order); *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*, Second Report and Order, 12 FCC Rcd 15503 (1997) (Second Report and Order).

4 See e.g., First Report and Order, 10 FCC Rcd 1786, 47 C.F.R. § 11.1

then replaced with an emergency announcement. Beginning October 1, 2002, cable systems serving fewer than 10,000 customers per headend were required to participate in EAS.[5]

In addition to participating in EAS, the cable industry has been actively involved in the FCC's Media Security and Reliability Council ("MSRC").[6] In March 2004, MSRC released comprehensive best practices recommendations for the broadcast television and radio, cable and satellite industries developed by its inter-industry working groups. The best practices relate to, among other things, physical security, redundant facilities, redundant communications and backup power. MSRC recommended that a single federal entity take lead responsibility for ensuring the distribution of public warnings by federal, state and local government personnel. It also recommended that a national, uniform, all-hazard risk communication warning process be implemented based on a public and private consensus.

Although EAS compliance at the federal level has largely gone smoothly, and has been applied effectively in many state and local communities, cable systems are still subject to a patchwork of emergency alert obligations pursuant to thousands of local franchise agreements. The lack of consistency from state-to-state, and town-to-town on how EAS is used, what protocols and procedures should apply, and what events should trigger activation of the system has adversely affected the overall effectiveness of the system. Moreover, the presence of dual

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[5] Systems serving 5,000 to 10,000 customers per headend were required to provide EAS messages in both audio and video on all programmed channels. Smaller cable systems, i.e., systems serving fewer than 5,000 customers per headend, were required to either comply with the above requirements, or undertake one of the two following options by October 1, 2002: provide video interrupts on all channels, i.e., cause the channels to flash simultaneously with and of the same duration as the EAS message; audio EAS message on all programmed channels; and audio and video EAS message on one channel (the audio alert must provide the channel where the EAS message is carried in both audio and video); or provide the national level EAS message on all programmed channels, by carrying only programming services that will carry the national level EAS message. See Second Report and Order, 12 FCC Rcd 15503.

[6] Cable industry representatives on MSRC I and II include Glenn Britt, Chairman and CEO, Time Warner Cable; Peter Brubaker, President and CEO, Susquehanna Communications; Brian Roberts, President, Comcast Corporation; and Robert Sachs, President and CEO, National Cable & Telecommunications Association. Members of NCTA's Science and Technology Department participated in all of the Council's working groups.

federal EAS requirements and local franchise emergency obligations in some areas has presented conflicts and inefficiencies that have caused some operators to opt out of EAS at the state and local level. The cable industry believes that a consistent set of federal standards on emergency alerting, as recommended by MSRC, is necessary in response to the disparate manner in which states and localities implement emergency notifications today.

In addition, we believe that existing EAS equipment is working effectively and, consistent with MSRC's recommendations, should not be rendered obsolete by any modifications in the nation's public warning systems. Many large cable systems have voluntarily installed new event codes through software upgrades and all new EAS equipment is now required under Commission rules to meet these standards. With regard to small cable systems, the Commission should extend waivers that are due to expire within the next year given the well-documented financial hardship that compliance with the EAS rules would cause these systems.

Regarding the accessibility of emergency information to persons with disabilities, NCTA believes the current rules are working well and we see no need to merge them into the EAS technical rules.

Finally, the Commission should bring direct broadcast satellite ("DBS") under the EAS regime given its pervasiveness as a provider of video programming to millions of Americans nationwide.

I. THE FCC SHOULD ENSURE GREATER CONSISTENCY AND UNIFORMITY IN THE APPLICATION OF EAS AND OTHER EMERGENCY NOTIFICATION SYSTEMS AT THE FEDERAL, STATE AND LOCAL LEVEL

In 2002, the Commission recognized that many cable operators have implemented the federal EAS program at the state and local level "despite the fact that participation in state and

local EAS is voluntary."[7] It went on to state that "broadcast stations and cable systems have participated extensively in state and local EAS activities and have helped to make EAS an invaluable tool for disseminating information about state and local emergencies to the public. We fully expect that broadcast stations and cable systems will continue to be active participants in their state and local EAS plans . . . ." [8]

The cable industry's voluntary participation in state and local EAS has worked effectively in many states. Many cable companies are actively working with State Emergency Communications Committees (SECCs) and Local Emergency Communications Committees (LECCs) and are integrally involved in the broader efforts of state emergency management agencies.

However, in the Notice, the Commission finds that although federal, state, and local governments have "taken steps to ensure that alert and warning messages are delivered by a responsive, robust and redundant system, the permissive nature of EAS at the state and local level has resulted in an inconsistent application of EAS as an effective component of overall public alert and warning system. Accordingly, we believe that we should now consider whether permissive state and local EAS participation is appropriate in today's world."[9]

NCTA submits that the problem is not the "permissive nature" of EAS at the state and local level but the difficulties associated with operating under a multi-layered governmental emergency warning system. Indeed, there is no question that cable companies recognize their important role in relaying information to the public during an emergency and have taken steps to

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7 See *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Report and Order, 17 FCC Rcd 4055, 4062 (2002) (2002 Report and Order).

8 Id.

9 Notice at ¶ 3.

participate in state and local emergency alerting largely through the federal EAS program. However, the problem is that there still exists a patchwork of local emergency alerting obligations, some dating back decades ago, which may interfere with effective notification to cable customers, particularly when overlayed with federal EAS requirements.

In some cases, these franchise obligations contemplate a dual system – the federal EAS and a separate local emergency notification system. They call for the cable operator, for example, to install and maintain an operational Emergency Alert System consistent with FCC regulations and at the same time provide a designated town or county official with a separate emergency override capability to enable the official to interrupt and cablecast an audio and video message on all channels, for as long and as frequently as deemed necessary by the official.[10] In other cases, municipalities are unaware of or disregard the federal EAS protocols and procedures in enforcing their own local emergency mandates. Some local franchise authorities maintain a legacy system which is to serve as the means for participation in the federal, state and local EAS.

In giving the local franchise authority complete discretion in activating the EAS, the franchise provisions may be inconsistent with the EAS State or Local Area Plan and procedures which govern EAS throughout the state or county. In particular, cable system EAS decoders are programmed to monitor and respond automatically to EAS header codes embedded in the State and Local Area Plan primary source feeds. The state-wide plans usually only authorize state or county emergency management officials to activate the system, not individual town or city officials.

[10] In preparing its comments, NCTA reviewed a variety of emergency notification provisions in cable franchise agreements, in both large and small communities, and found that many present the same compliance issues for cable operators faced with both federal and local emergency notification requirements.

Apart from the cost and inefficiency of maintaining dual federal-local emergency alerting systems, a city's ability to activate warnings outside of EAS may confuse the public with facially undifferentiated, overlapping alerts. For example, in cases of severe weather, there may be an EAS alert originated by the National Weather Service and a weather emergency alert originating from another state or local organization containing different information. To avoid the problem of compliance with both the federal and a separate legacy system, some operators may simply elect not to participate in the EAS program for state and local warnings. This further compounds the lack of uniformity.

Technological changes also have had an impact on the effectiveness of state and local emergency alerting. The advent of the centralized, master headend has meant that cable facilities no longer necessarily line up by town. They may cover a wide area crossing many communities. This makes compliance with individualized community-by-community requirements difficult and may result in less targeted, unnecessary alerts to cable customers. While some cable systems are capable of targeting specific geographic locations or municipalities, many are not designed to correspond to specific political boundaries. Thus, if a local official exercises his or her right to override the system with a message regarding an emergency condition in a particular town, in some instances the message (which may take the form of a complete blackout of the picture which is then replaced with an emergency announcement) goes out to adjacent communities served by the system which may not be affected by the emergency situation.

There are certainly situations where the local official's use of the cable emergency override capability is justifiable in alerting local residents. For example, during Hurricane Ivan, which struck several southern states in September, the St. Bernard, Louisiana Parish president used the franchise-required alert system to override regular programming on all channels to

notify people to tune to live announcements from local officials on the parish's government access channel.[11] This severe weather alert was targeted to the specific community affected.

But many activations of the EAS system at the local level relate to non-weather related occurrences, such as local road restrictions or hazardous materials spills or school closings, that are confined to a specific area. Franchise authorities need to recognize the costs and difficulty for some cable systems of isolating particular towns or geographic areas to support individualized franchise emergency overrides.[12] And local officials need to be sensitive to the fact that overrides may extend beyond their community -- and that consumers do not wish to have their cable programming needlessly or excessively interrupted about hazardous conditions that do not affect their community.

This is not a new issue. Six years ago, in its Second Report and Order, the Commission saw "no reason to preempt existing franchise agreements that require emergency alerting for local conditions specific to a community."[13] However, it expressed concern "about possible conflict between requirements of local jurisdictions and federal regulations regarding the EAS rules," concluding that "should any local jurisdictions' EAS requirements conflict or interfere with those adopted by the Commission, the local jurisdictions' requirements will be preempted."[14] This decision should be fully enforced by the Commission today.

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[11] "Parish Goes Live During Ivan," Times-Picayune, September 18, 2004.

[12] Another area of growing concern is the conflict between franchise provisions requiring the override of all broadcast and non-broadcast channels with EAS messages and broadcast retransmission consent agreements prohibiting cable operators from overriding broadcast station signals. Some broadcasters are prohibiting such overrides in retransmission consent agreements in order to circumvent the Commission's repeated decisions not to require the "selective override" of broadcast vs. non-broadcast channels by cable systems in light of, among other things, local franchise-required all-channel overrides. See *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System*, Third Report and Order, 14 FCC Rcd 1273 (1998).

[13] Second Report and Order, 12 FCC Rcd 15503, 15520.

[14] Id. (emphasis added). In its 2002 Notice of Proposed Rulemaking proposing revisions to its technical and operational rules for EAS, the Commission proposed adding new state and local event codes for emergency conditions. As an alternative, the Commission proposed leaving the development of state and local event codes

For it is all the more important now to ensure that local emergency alerting obligations do not interfere with the increased need for effective and dependable communications to the public.

In that regard, NCTA believes that federal standards would alleviate the problem of cable systems' having to adhere to dual federal and state or local requirements. In recognizing the inconsistencies and uneven application of EAS and other emergency alerting mechanisms, the FCC's MSRC Public Communications and Safety Working Group recommended that a single federal entity be responsible for assuring that:

- Public communications capabilities and procedures exist, are effective, and are deployed for distribution of risk communication and warnings to the public by appropriate federal, state and local government personnel, agencies and authorities.
- Lead responsibilities and actions under various circumstances are established at federal, state and local levels within the overall discipline of emergency management.
- A national, uniform, all-hazard risk communication warning process is implemented from a public and private consensus on what best meets the needs of the public, including people of diverse language and/or with disabilities, including sensory disabilities.[15]

In the process of developing a national, uniform all-hazard warning process, cable operators will continue to work with the federal government and local franchise authorities to define workable emergency alerting requirements and avoid unnecessary and obtrusive overrides of cable television programming. However, should the Commission decide to mandate

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and location codes to state and local authorities. The Commission ultimately agreed with many commenters that this approach would "result in great variations in EAS equipment throughout the country, which could threaten the reliability of the EAS system and jeopardize public safety." 2002 Report and Order, 17 FCC Rcd 4055, 4061 (2002). Similarly, significant variations in state and local emergency alerting systems may threaten the reliability of a national public warning system.

[15] MSRC Best Practices Recommendations at 11.

participation in EAS by cable systems at the state and local level to address new public safety concerns, it should make clear that the federal EAS rules supersede any franchise-required emergency alerting requirements.[16] NCTA believes that federal standards for state and local plans (addressing the needs of all stakeholders, i.e., broadcast, cable and other delivery media) and for when and how state and local emergency managers may activate an all-hazard warning system is important to ensuring a seamless, efficient and effective public alert system.

II. THE EAS EQUIPMENT CURRENTLY IN PLACE IS EFFECTIVE AND, IN MOST CASES, MAY BE UPGRADED AND THEREFORE SHOULD NOT BE DISPLACED PREMATURELY BY ANY NEW PUBLIC WARNING SYSTEM

Over the past six years, since the Commission brought cable systems fully under the EAS program, the cable industry has invested approximately 100 million dollars to deploy the technology.[17] As pointed out in the Notice, MSRC and the Partnership for Public Warning ("PPW") "advocate upgrading, not replacing, EAS."[18] PPW's assessment of EAS concluded that "any new public warning system design should take advantage of the existing EAS infrastructure and should be able to accommodate existing EAS equipment in place, noting that it would be difficult to replace or rebuild such a capability today at a reasonable cost."[19] NCTA agrees that the federal government should not render existing equipment obsolete in designing any new public warning system.

With respect to EAS event codes, the Commission now asks whether circumstances have changed such that the Commission should adopt rules that require broadcasters and cable

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[16] At a minimum, the Commission should provide concrete directives to local franchise authorities on the types of conflicts and interference with the federal EAS – as it applies to state and local emergencies – that are unacceptable under the rules.

[17] This is based on an average of $10,000 per headend for approximately 10,000 cable headends nationwide.

[18] Notice at ¶ 21.

[19] Id., citing Partnership for Public Warning, the Emergency Alert System (EAS): An Assessment, Partnership for Public Warning, 28 (February 2004).

operators to upgrade their EAS equipment so that it is capable of receiving and transmitting all current event and location codes, including the new codes adopted in the 2002 Report and Order.[20]

Given the voluntary nature of state and local EAS, the Commission declined to mandate upgrades to existing EAS equipment to incorporate new optional event codes. It was also concerned that imposing additional costs and burdens on broadcast stations and cable systems may have the undesired effect of reducing voluntary participation in state and local EAS activities. Therefore, the Commission encouraged broadcasters and cable operators to upgrade their existing equipment on a voluntary basis until it is replaced. Cable systems that replace their EAS equipment after February 1, 2004 must install equipment that is capable of receiving and transmitting the new event codes.

We continue to believe that this was the right decision. Many large cable systems have already installed the software or firmware necessary to respond to the new event codes and others are preparing to do so in the near future. But, as explained more fully below, it would be highly burdensome for small cable systems to retrofit existing equipment to implement the new codes

on a mandatory basis given the costs associated with installing this capability. Therefore, the Commission should not impose this requirement on small cable operators without government assistance.

With respect to the deployment of future technologies to disseminate all-hazard emergency alerts over a variety of communications networks and systems, known as alternate public alert and warning systems (APAWS), we support such endeavors provided they do not

[20] 2002 Report and Order, 17 FCC Rcd 4055 (2002).

jeopardize the enormous investment that the cable industry undertook in just the past six years to deploy EAS. The cable industry supports, for example, the development of a Media Common Alert Protocol ("MCAP") designed to deliver emergency messages via digital networks on various media. However, this type of advancement in emergency information flow is in the early stages of development and should not be the basis for the premature displacement of existing EAS equipment.

III. THE COMMISSION SHOULD NOT IMPOSE NEW EAS OR PUBLIC WARNING RULES THAT WOULD CREATE A FINANCIAL HARDSHIP FOR SMALL CABLE SYSTEMS, AND IT SHOULD EXTEND SMALL SYSTEM WAIVERS BEYOND 2005 WHERE APPROPRIATE

The Commission recognizes that small companies may lack the resources to absorb equipment upgrades and staff and asks whether their level of participation in EAS and other public warning efforts should be dependent on the size of the entity. It also inquires whether assistance should be provided to small businesses through government funding, recognizing that waivers of certain EAS rules have been granted due to financial hardship.

As the Commission points out, some small cable systems that were granted waivers from the EAS rules when they were initially adopted have now installed equipment. For example, some small to medium-sized cable companies that operate a variety of small, rural cable systems undertook significant capital expenditures to upgrade, interconnect and consolidate their non-EAS cable systems in order to bring them into compliance with EAS regulations. But waivers for other small systems, in many cases serving fewer than 1000 subscribers, are still in place and are due to expire in the coming year. The Commission granted waivers to these systems on the grounds that the cost to install EAS equipment at each system, estimated at between $6000 and $10,000 per headend, would impose a substantial financial hardship. This is still the case.

Even among many small systems that have already installed EAS equipment, a requirement to upgrade equipment so that it is capable of receiving and transmitting all current event and location codes would be burdensome. The cost to implement new event codes depends on a number of factors, including the size and sophistication of the headend and the type of EAS equipment in place. For many of these systems, it is not simply a matter of installing a software upgrade (ranging from between $250 - $400 per event code) but could require replacement of the existing equipment. Mandatory compliance with EAS could result in the shut down or eventual demise of these systems altogether.

Moreover, small, financially-strapped cable operators face intense competition from national, resource-rich DBS providers which have no EAS obligations. Requiring these small cable systems to shoulder additional costs will further hobble them in their effort to compete with their much larger counterparts.

In light of the Commission's well-established record on the economic impact of EAS compliance on small cable systems, NCTA urges the Commission to extend the waivers that are currently in place beyond 2005, throughout the pendency of this proceeding. As the Notice indicates the federal government is in the process of evaluating the nation's public warning systems and is considering statutory and regulatory changes in this area. These systems simply cannot afford to purchase EAS equipment, only to find out within a matter of months or a few short years that the equipment must be replaced.

Moreover, to the extent the government does seek to impose new and potentially costly obligations on these systems, and given the national importance of the dissemination of information to the public in emergency situations, NCTA encourages the government to seek

ways to fund the installation of EAS equipment and to upgrade existing equipment for small cable systems in the future.

IV. THE EMERGENCY ALERT SYSTEM SHOULD ENCOMPASS NOT ONLY BROADCASTERS AND CABLE OPERATORS BUT DIRECT BROADCAST SATELLITE PROVIDERS GIVEN THEIR PERVASIVENESS AS PROVIDERS OF VIDEO PROGRAMMING

The Commission asks whether it should adopt rules extending EAS obligations to direct broadcast satellite (DBS), digital broadcast television (DTV), digital cable and other services. NCTA believes that direct broadcast satellite should be brought under the EAS regime. Just as the Commission recognized the pervasiveness of cable television by the early 1990s, it should similarly find that DBS is "an invaluable link in the dissemination of information during emergencies."[21]

DBS is a major provider of video programming, reaching over 22 million customers nationwide and well over 23 percent of all multichannel video customers.[22] As the Commission recognized in its 10th Annual Video Competition Report, DirecTV is the second largest multi-channel video programming distributor (MVPD) and EchoStar is the fourth largest MVPD.[23] As a mature, fully entrenched video programming service, there is no reason for the Commission to refrain from applying the EAS rules to DBS and deprive millions of DBS subscribers throughout the country from receiving critical emergency information. Indeed, all MVPDs should be subject to EAS requirements on a distributor-neutral basis.

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[21] First Report and Order, 10 FCC Rcd 1786, 1806 (1994).

[22] NCTA estimates based on data from Kagan Research LLC, Kagan Media Money, May 26, 2004, p. 6; Nielsen Media Research.

[23] See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, rel. February 2, 2004 at ¶ 65.

With regard to local emergencies, DBS operators that carry local broadcast stations have the capability to provide local emergency notifications through the same transmission path that they use to send the local signals to their uplink facilities. Emergency messages can be delivered, for example, to all boxes registered in the same zip code. In addition, DBS has the technology to address boxes individually in order to perform service level changes and disconnect customers from service.

Moreover, as noted earlier, it is particularly unfair as a policy matter to require small to mid-sized cable systems, i.e., those serving 10,000 customers or less, to comply with EAS requirements when major DBS competitors serving millions of customers are not required to install emergency alert equipment and comply with associated rules.

Regarding digital cable services, most cable operators are already providing EAS messages for digital cable channels voluntarily or pursuant to local franchise agreements. Cable operators are likely to continue to do so whether or not the federal EAS rules specifically mandate such requirement. Overriding all channels on the analog and digital tiers with important emergency information ensures that whatever channel a customer is watching he or she will receive the information. If the Commission decides to require any providers of digital video programming services to conform to a new or revised set of hazard-related rules, such rules should be applied equally to all distributors, whether broadcast, cable, DBS or other MVPD-originated services.

As the Commission points out in the Notice, the dissemination of warnings via television may not reach the entire community. Some people may not be at home, and those at home may not be watching television. A system that reaches a variety of modes of communications – e.g., television, radio, cellular and other wireless devices – is likely to be much more pervasive and

effective than a system relying totally on the override of audio or video programming on broadcast stations and cable systems.

V. THE COMMISSION'S CURRENT RULES REQUIRING CABLE OPERATORS TO PROVIDE CRITICAL EMERGENCY INFORMATION TO INDIVIDUALS WITH HEARING AND VISUAL DISABILITIES ARE WORKING WELL

In 2000, the Commission adopted rules regarding the accessibility of emergency information for persons with hearing disabilities.[24] The rules require that critical details of emergency information that is provided in the audio portion of a program must be made accessible through closed captioning or by using a method of visual presentation, such as open captioning, crawls or scrolls.[25] To be covered, the emergency information must be primarily intended for distribution to an audience in the geographic area in which the emergency is occurring.

With regard to persons with visual disabilities, the Commission's rules require cable operators to make critical details of all local emergency information accessible to that population.[26] The requirement applies to information provided during regularly schedules local newscasts, unscheduled newscasts that preempt regularly scheduled programming or during continuing coverage of an emergency. In addition, any cable operator that provides emergency information through a crawl or scroll that appears on the screen is required to alert people with visual disabilities that the operator is about to provide emergency information.

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[24] See *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Accessibility of Emergency Programming*, Second Report and Order, MM Docket No. 95-176, FCC 00-136, 15 FCC Rcd 6615 (April 14, 2000); see also *Accessibility of Emergency Programming Rule Requiring OMB Approval Effective as of August 29, 2000*, Public Notice, DA 00-1996, 15 FCC Rcd 15968 (Aug. 31, 2000).

[25] See 47 C.F.R. § 79.2.

[26] See *Amended Emergency Information Rule effective as of February 1, 2001,* Public Notice, DA 01-799, 16 FCC Rcd 7194 (Mar. 30, 2001); 47 C.F.R. § 79.2.

The cable industry continues to be committed to ensuring that persons with vision and hearing disabilities have access to vital emergency information. NCTA believes that the current rules are working well and there appears to be no need to merge the emergency accessibility rules in section 79.2 of the Commission's rules into the Part 11 EAS rules.

VI. CABLE SYSTEM OPERATORS HAVE INSTITUTED A VARIETY OF MEASURES TO IMPROVE NETWORK AND FACILITY SECURITY AND ENSURE ADEQUATE PERSONNEL TRAINING AND COMPLIANCE WITH EAS TESTING REQUIREMENTS

As cable companies have upgraded their systems to provide advanced broadband services, they have instituted more sophisticated network reliability and security measures to better serve their customers. The following addresses the Commission's questions pertaining to plant and facility security, equipment testing, and personnel training in the area of emergency preparedness and emergency notifications to the public.

Security. The Commission asks about better means for ensuring and improving the security of EAS distribution methods and equipment. It also seeks comment on whether it should require password protection of all EAS encoders. As noted earlier, the cable industry has participated in the development of best practices for local cable television systems addressing physical security, backup power capabilities for key facilities (including headends, hub, plant and customer service facilities), redundant communications, redundant facilities and disaster recovery plans.[27] In addition, many cable companies have undertaken comprehensive inventory of their facilities and network security, conducted needs assessments to improve system security, and developed detailed emergency response plans.

In New Jersey, for example, cable companies have taken such measures as imposing new and enhanced facility access restrictions by requiring employee identification to be worn at all

times, visitor and contractor identification and screening, key card access and/or video monitoring; new or reinforced standards for ensuring worker safety during mail sorting and delivery operations; and internal assessment of any new or additional security needs based on recent events.

Regarding the Commission's question about placement of EAS equipment, cable systems have already placed such equipment in central locations within cable facilities.

Testing. Cable operators are required to conduct monthly and weekly EAS tests according to a detailed schedule set forth in the Commission's rules. NCTA believes that the FCC's current EAS testing requirements, developed by the Media Bureau in cooperation with cable system operators, is very effective. In fact, many cable operators do more testing than is required under the rules.

Training. The FCC's "EAS Cable Handbook," provides instructions and procedures for broadcast station and cable system personnel to follow during national, state and local alerts, and tests. Cable personnel participating in state and local EAS also are required to follow "State and Local Areas Plans," which contain guidelines for activating EAS and key EAS sources.

The Notice asks whether additional training resources should be provided to emergency managers and whether there should be periodic mandatory EAS training of broadcast station and cable system personnel. The cable industry utilizes a variety of manufacturers and vendors of EAS equipment. Given the uniqueness of each vendor's equipment, training is necessarily conducted by the vendor. Cable operators review the procedures for operating EAS equipment with personnel designated to handle emergency alerting on a regular basis. NCTA does not

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[27] MSRC Best Practices Recommendations at 8-10.

believe that mandatory training is necessary, given the largely automated nature of cable EAS equipment.

However, it would help the EAS distribution process if originators of EAS messages were better trained on proper formatting of messages. In some instances, messages do not get through the distribution chain due to improper formatting.

CONCLUSION

For the foregoing reasons, the Commission and its counterparts in other federal agencies should adopt regulations that ensure a more uniform, consistent and definitive set of standards for the implementation of EAS and any other emergency notification mechanisms at the federal, state and local level. And, consistent with the MSRC and PPW recommendations, the federal government should utilize the existing EAS infrastructure in designing any new public warning system.

Respectfully submitted,

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